

## **REMARKS**

### **CLAIMS**

Claims 1, 3-13, 36-65, 73-74, 77-79 and 132-168 were pending and are subject to restriction. Applicants amended herewith claims 39 and 57. Accordingly, claims 39-48, and 57 are being examined.

Support for amended claim 39 can be found on page 2, lines 33-37; page 3, lines 1-23; and originally-filed claims 3 and 40. The amendment to claim 57 merely removes the dependencies to non-elected claims. Accordingly, these changes do not involve new matter.

Entry of these amendments and the foregoing remarks in the file of the above-captioned patent application is respectfully requested.

### **RESTRICTION REQUIREMENT**

In the Office Action, the Office is requiring restriction under 35 U.S.C. §121 to one of the following inventions:

Group I: Claims 1-13, 73-74, 139-149 and 154-158, drawn to adipose-derived stem cells and implants containing adipose-derived stem cells, classified in Class 435, subclass 325.

Group II: Claims 36, 37 and 57 as drawn to claim 36, drawn to a method to obtain genetically-modified cell, classified in Class 435, subclass 455.

- Group III: Claims 39-48, 57 as drawn to claim 39 and 160-162, drawn to a method of differentiating a cell, classified in Class 435, subclass 377.
- Group IV: Claims 49, 54 and 57 as drawn to claim 49, drawn to a method of producing hormones, classified in Class 435, subclasses 325 and 405.
- Group V: Claims 50 and 57 as drawn to claim 50, drawn to a method of promoting wound closure, classified in Class 435, subclass 325.
- Group VI: Claims 51-53 and 57 as drawn to claim 51, drawn to a method of promoting neovascularization, classified in Class 435, subclass 325.
- Group VII: Claims 55-57 as drawn to claim 55 and 163, drawn to a method of conditioning culture medium, classified in Class 435, subclasses 325, 373 and 405.
- Group VIII: Claims 58-59 and 164, drawn to conditioned culture medium, classified in Class 435, subclass 405.
- Group IX: Claims 60-65, drawn to a method of culturing a stem cell, classified in Class 435, subclasses 325 and 405.
- Group X: Claims 77-79 and 165-168, drawn to a kit for isolating stem cells from adipose tissue, classified in Class 435, subclasses 325 and 405.
- Group XI: Claims 132-138, drawn to a method of isolating and differentiating stem cells from adipose tissue, classified in Class 435, subclasses 325 and 377.

Group XII: Claims 150-151, drawn to a method of inducing mesodermal tissue, classified in Class 435, subclass 1.1.

Group XIII: Claim 152, drawn to a method of regenerating or repairing tissue, classified in class 435, subclasses 1.1 and 325.

Group XIV: Claims 38, 57 as drawn to claim 38 and 159, drawn to a method of delivering a transgene to an animal, classified in Class 435, subclasses 325 and 455.

#### **ELECTION WITH TRAVERSE**

Applicants hereby elect the invention of Group III with traverse.

Reconsideration of the Restriction Requirement is requested for the following reasons:

Applicants point out that under MPEP §803, there are two criteria for a proper requirement for restriction, namely: (1) the invention must be independent and distinct; AND (2) there must be serious burden on the Examiner for restriction to be required.

Applicants respectfully contend that the second requirement of §803 has not been met. The Patent Office has not demonstrated a serious burden for searching the art of Groups I-XIV. The Examiner can perform a search on the entire application without serious burden. Thus, search of the art with regard to the invention of Groups I-XIV would not place an undue burden on the Examiner. Moreover, separate prosecution of these claims would be unnecessarily duplicative and thus wasteful of Patent Office resources. Therefore, under MPEP Section 803, the instant claims do not require restriction.

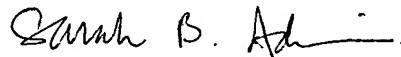
Applicants submit that claims of Groups I-XIV should properly be examined together for the reasons discussed above. Applicants respectfully request that the Examiner reconsider and withdraw the Restriction Requirement as to these claims.

**CONCLUSION**

If a telephone interview would be of assistance in advancing the prosecution of the subject application, Applicants' undersigned attorney invites the Examiner to telephone her at the number provided below.

No fee, other than the fee for extension of time, is deemed necessary in connection with the filing of this response. If any further fee is necessary, the Patent Office is authorized to charge any additional fee to Deposit Account No. 50-0306.

Respectfully submitted,



---

Sarah B. Adriano  
Registration No. 34,470  
SaraLynn Mandel  
Registration No. 31,853  
Mandel & Adriano  
55 So. Lake Ave., Suite 710  
Pasadena, California 91101  
626/395-7801  
Customer No: 26,941